

**Subpart C—Adoption of One-Call Damage Prevention Program**

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AUTHORITY: 49 U.S.C. 60105, 60106, 60114; and 49 CFR 1.53.

SOURCE: 55 FR 38691, Sept. 20, 1990, unless otherwise noted.

**Subpart A—General**

**§ 198.1 Scope.**

This part prescribes regulations governing grants-in-aid for State pipeline safety compliance programs.

**§ 198.3 Definitions.**

As used in this part:

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

*Adopt* means establish under State law by statute, regulation, license, certification, order, or any combination of these legal means.

*Excavation activity* means an excavation activity defined in § 192.614(a) of this chapter, other than a specific activity the State determines would not be expected to cause physical damage to underground facilities.

*Excavator* means any person intending to engage in an excavation activity.

*One-call notification system* means a communication system that qualifies under this part and the one-call damage prevention program of the State concerned in which an operational center receives notices from excavators of intended excavation activities and transmits the notices to operators of underground pipeline facilities and other underground facilities that participate in the system.

*Person* means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

*Underground pipeline facilities* means buried pipeline facilities used in the transportation of gas or hazardous liquid subject to the pipeline safety laws (49 U.S.C. 60101 *et seq.*).

*Secretary* means the Secretary of Transportation or any person to whom the Secretary of Transportation has delegated authority in the matter concerned.

*Seeking to adopt* means actively and effectively proceeding toward adoption.

*State* means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

[55 FR 38691, Sept. 20, 1990, as amended by Amdt. 198-2, 61 FR 18518, Apr. 26, 1996; 68 FR 11750, Mar. 12, 2003; 70 FR 11140, Mar. 8, 2005]

**Subpart B—Grant Allocation**

SOURCE: Amdt. 198-1, 58 FR 10988, Feb. 23, 1993, unless otherwise noted.

**§ 198.11 Grant authority.**

The pipeline safety laws (49 U.S.C. 60101 *et seq.*) authorize the Administrator to pay out funds appropriated or otherwise make available up to 80 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

[Amdt. 198-5, 74 FR 62506, Nov. 30, 2009]

**§ 198.13 Grant allocation formula.**

(a) Beginning in calendar year 1993, the Administrator places increasing emphasis on program performance in allocating state agency funds under § 198.11. The maximum percent of each state agency allocation that is based on performance follows: 1993—75 percent; 1994 and subsequent years—100 percent.

(b) A state's annual grant allocation is based on maximum of 100 performance points derived as follows:

(1) Fifty points based on information provided in the state's annual certification/agreement attachments which document its activities for the past year; and

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(2) Fifty points based on the annual state program evaluation.

(c) The Administrator assigns weights to various performance factors reflecting program compliance, safety priorities, and national concerns identified by the Administrator and communicated to each State agency. At a minimum, the Administrator considers the following performance factors in allocating funds:

(1) Adequacy of state operating practices;

(2) Quality of state inspections, investigations, and enforcement/compliance actions;

(3) Adequacy of state recordkeeping;

(4) Extent of state safety regulatory jurisdiction over pipeline facilities;

(5) Qualifications of state inspectors;

(6) Number of state inspection person-days;

(7) State adoption of applicable federal pipeline safety standards; and

(8) Any other factor the Administrator deems necessary to measure performance.

(d) Notwithstanding these performance factors, the Administrator may, in 1993 and subsequent years, continue funding any state at the 1991 level, provided its request is at the 1991 level or higher and appropriated funds are at the 1991 level or higher.

(e) The Administrator notifies each state agency in writing of the specific performance factors to be used and the weights to be assigned to each factor at least 9 months prior to allocating funds. Prior to notification, PHMSA seeks state agency comments on any proposed changes to the allocation formula.

(f) Grants are limited to the appropriated funds available. If total state agency requests for grants exceed the funds available, the Administrator prorates each state agency's allocation.

[Amdt. 198-1, 58 FR 10988, Feb. 23, 1993, as amended at 70 FR 11140, Mar. 8, 2005]

### Subpart C—Adoption of One-Call Damage Prevention Program

#### § 198.31 Scope.

This subpart implements parts of the pipeline safety laws (49 U.S.C. 60101 *et seq.*), which direct the Secretary to require each State to adopt a one-call

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damage prevention program as a condition to receiving a full grant-in-aid for its pipeline safety compliance program.

[Amdt. 198-2, 61 FR 18518, Apr. 26, 1996]

#### § 198.33 [Reserved]

#### § 198.35 Grants conditioned on adoption of one-call damage prevention program.

In allocating grants to State agencies under the pipeline safety laws, (49 U.S.C. 60101 *et seq.*), the Secretary considers whether a State has adopted or is seeking to adopt a one-call damage prevention program in accordance with § 198.37. If a State has not adopted or is not seeking to adopt such program, the State agency may not receive the full reimbursement to which it would otherwise be entitled.

[Amdt. 198-2, 61 FR 38403, July 24, 1996]

#### § 198.37 State one-call damage prevention program.

A State must adopt a one-call damage prevention program that requires each of the following at a minimum:

(a) Each area of the State that contains underground pipeline facilities must be covered by a one-call notification system.

(b) Each one-call notification system must be operated in accordance with § 198.39.

(c) Excavators must be required to notify the operational center of the one-call notification system that covers the area of each intended excavation activity and provide the following information:

(1) Name of the person notifying the system.

(2) Name, address and telephone number of the excavator.

(3) Specific location, starting date, and description of the intended excavation activity.

However, an excavator must be allowed to begin an excavation activity in an emergency but, in doing so, required to notify the operational center at the earliest practicable moment.

(d) The State must determine whether telephonic and other communications to the operational center of a one-call notification system under paragraph (c) of this section are to be toll free or not.